

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



January 23, 2002

Regulation Package 1200-24

CDSS MANUAL LETTER NO. CCL-01-14

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,  
CHAPTER 7.5, FOSTER FAMILY HOMES

**Regulation Package #1200-24****Effective 8/26/01****Sections 87054 and 87055.1**

Senate Bill 933 (Chapter 311, Statutes of 1998) and AB 1659 (Chapter 881, Statutes of 1999) required that prior to an individual's presence or employment in a community care facility, a residential care facility for the elderly, a residential care facility for the chronically ill, or a child care facility, the individual have fingerprints submitted for purposes of a criminal background check. The statutes provide for the imposition of an immediate civil penalty of \$100 per violation on a licensee who permits a person to be present in a facility who violates this requirement. These regulations implement this legislative requirement. It is necessary for the department to place clear criteria and procedures for the implementation of these civil penalties into regulation.

These regulations were heard at the Department's public hearing held on May 16, 2001.

**FILING INSTRUCTIONS**

**Revisions to all manuals are shown in graphic screen.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-01-13. The latest prior manual letter containing Foster Family Homes changes was Manual Letter No. CCL-01-09.

**Page(s)****Replace(s)**

2  
75 through 78

Page 2  
Pages 75 through 78

Attachment

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**TABLE OF CONTENTS****TITLE 22, DIVISION 6****CHAPTER 7.5 FOSTER FAMILY HOMES****Article 1. General Requirements and Definitions**

|                   | <b>Section</b> |
|-------------------|----------------|
| General .....     | 87000          |
| Definitions ..... | 87001          |

**Article 2. Licensing**

|   |         |
|---|---------|
| License Required .....  | 87005   |
| Operation Without a License .....                                       | 87006   |
| Exemption From Licensure.....   | 87007   |
| Certified License Pending Homes.....                                    | 87007.1 |
| Availability of License.....  | 87009   |
| Limitations on Capacity and Ambulatory Status .....                     | 87010   |
| Limitations on Capacity for Specialized Foster Family Homes .....       | 87010.1 |
| Prohibition of Dual Licensure for Specialized Foster Family Homes ..... | 87010.2 |
| False Claims.....   | 87012   |

**Article 3. Application Procedures**

|  |       |
|--|-------|
| Applicant Qualifications .....                                       | 87017 |
| Application for License.....   | 87018 |
| Criminal Record Clearance.....                                       | 87019 |
| Fire Clearance .....   | 87020 |
| Water Supply Clearance .....   | 87021 |
| Plan of Operation .....  | 87022 |
| Disaster and Mass Casualty Plan .....                                | 87023 |
| Waivers and Exceptions.....  | 87024 |
| Bonding.....   | 87025 |
| Safeguards for Cash Resources, Personal Property, and Valuables..... | 87026 |
| Application Review .....   | 87027 |
| Capacity Determination .....   | 87028 |
| Withdrawal of Application .....                                      | 87029 |
| Provisional License.....   | 87030 |
| Issuance of License .....  | 87031 |
| Term of an Initial or Renewal License.....                           | 87032 |

## TABLE OF CONTENTS (Continued)

|  | <b>Section</b> |
|--|----------------|
| Application for Renewal of License .....                                   | 87033          |
| Submission of New Application .....  | 87034          |
| Conditions for Forfeiture of a Foster Family Home License .....            | 87035          |
| Application/Renewal Processing Fee.....                                    | 87036          |
| <br><b>Article 4. Administrative Actions</b><br>                           |                |
| Denial of Initial License.....   | 87040          |
| Denial of a Renewal License .....  | 87041          |
| Revocation or Suspension of License .....                                  | 87042          |
| Licensee/Applicant Complaints .....  | 87043          |
| Inspection Authority of the Department or Licensing Agency .....           | 87044          |
| Evaluation Visits.....   | 87045          |
| <br><b>Article 5. Enforcement Provisions</b><br>                           |                |
| Serious Deficiencies.....  | 87051          |
| Deficiencies in Compliance .....   | 87052          |
| Follow-up Visits to Determine Compliance .....                             | 87053          |
| Penalties .....  | 87054          |
| Unlicensed Facility Penalties.....   | 87055          |
| Denial or Revocation or License for Failure to Pay Civil Penalties .....   | 87055.1        |
| Unlicensed Facility Administrative Appeal.....                             | 87056          |
| <br><b>Article 6. Continuing Requirements</b><br>                          |                |
| Reporting Requirements .....   | 87061          |
| Licensee Duties and Responsibilities.....                                  | 87064          |
| Repealed by Manual Letter No. CCL-97-09, effective 6/13/97.....            | 87064.1        |
| Personnel Requirements.....  | 87065          |
| Personnel Requirements for Specialized Foster Family Homes .....           | 87065.1        |
| Personnel Records for Specialized Foster Family Homes .....                | 87066          |
| Admission Agreements .....   | 87068          |
| Admission Procedures .....   | 87068.1        |
| Needs and Services Plan .....  | 87068.2        |
| Modifications to Needs and Services Plan.....                              | 87068.3        |
| Repealed by Manual Letter No. CCL-97-09, effective 6/13/97.....            | 87068.4        |
| Children's Medical Assessments .....                                       | 87069          |
| Individualized Health Care Plans for Specialized Foster Family Homes ..... | 87069.1        |
| Children's Records .....   | 87070          |

**87052 DEFICIENCIES IN COMPLIANCE (Continued)****87052**

- (2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the home in which it occurred.
- (3) The plan developed, as specified in (b) above, for correcting each deficiency.
- (4) A date by which each deficiency shall be corrected.
  - (A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:
    - 1. The potential hazard presented by the deficiency.
    - 2. The number of children affected.
    - 3. The availability of equipment or personnel necessary to correct the deficiency.
    - 4. The estimated time necessary for delivery, and for any installation, of necessary equipment.
  - (B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.
  - (C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify corrective actions which must be taken within 30 calendar days to begin correction.
  - (D) The evaluator shall have the authority to require correction of a deficiency within 24 hours or less if there is an immediate threat to the health or safety of the clients.
- (5) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the home is located.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

**87053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE****87053**

- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1534 and 1553, Health and Safety Code.

**87054 PENALTIES****87054**

- (a) An immediate penalty of \$100 per violation shall be assessed for failure to submit fingerprints on any individual required to be fingerprinted under Health and Safety Code Section 1522(b) prior to the person's employment, residence or presence in the facility.
- (1) Progressive civil penalties specified in Health and Safety Code Section 1548 shall not apply.
- (b) Unless otherwise provided, all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

NOTE: Authority cited: Section 1522, 1530 and 1548, Health and Safety Code. Reference: Section 1534 and 1548, Health and Safety Code.

**87055 UNLICENSED FACILITY PENALTIES****87055**

- (a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:
- (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of the Law pursuant to Section 87006, and continues to operate.
- (A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 87018.
- (B) The completed application shall be deemed to be submitted when received by the licensing agency.
- (2) Unlicensed operation continues after denial of the initial application.
- (A) Notwithstanding any appeal action, facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:
- (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

**87055 UNLICENSED FACILITY PENALTIES (Continued)****87055**

- (A) The \$200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Sections 87055(a)(1)(A) and (B).
- (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
  - (A) The \$200 per day penalty shall continue until the operator ceases operation.
- (c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1503.5 of the Health and Safety Code has ceased, the penalty shall cease as of the day the licensing agency receives the notification.
  - (1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.
  - (2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.
- (d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.
- (e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction to take other appropriate action for failure to pay penalties as specified in (d) above.

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- (f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a community care facility without a license.
  - (1) Section 1508 of the Health and Safety Code provides in part:

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct or maintain a community care facility in this state, without a current valid license therefore as provided in this Chapter.

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**HANDBOOK ENDS HERE**

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NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1503.5, 1508, 1520, 1533, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

**87055.1 DENIAL OR REVOCATION OF LICENSE FOR  
FAILURE TO PAY CIVIL PENALTIES****87055.1**

- (a) The licensee shall be responsible for paying civil penalties.
  - (1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.
- (b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.
  - (1) The Department shall have the authority to approve payment arrangements acceptable to the Department.
  - (2) The Department shall have the authority to approve the form of payment.
  - (3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.
- (c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1551.

NOTE: Authority cited: Sections 1522, 1530 and 1548, Health and Safety Code. Reference: Sections 1534, 1548, and 1551, Health and Safety Code.

**87056 UNLICENSED FACILITY ADMINISTRATIVE APPEAL****87056**

- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days of the mailing of the penalty assessment.
  - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1503.5, 1508 and 1547, Health and Safety Code.